

**BRIGHAM CITY PLANNING COMMISSION MEETING
TUESDAY, FEBRUARY 05, 2008 – 6:30 PM
BRIGHAM CITY COUNCIL CHAMBERS**

PRESENT:	Joan Peterson	Chairperson
	Barbara Poelman	Vice-Chairperson
	Reese Nielsen	Commissioner
	Roger Handy	Commissioner
CITY STAFF:	Jeff Leishman	Associate Planner
	Eliza McGaha	Secretary
EXCUSED:	Ruth Jensen	City Council Liaison
	Bill McGaha	Commissioner
	Lynda Berry	Commissioner
	Jared Johnson	Community Development Manager
	Mark Teuscher	City Planner

AGENDA

WORK SESSION – AGENDA REVIEW

REGULAR MEETING

PLEDGE OF ALLEGIANCE

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES

PUBLIC COMMENT (*Per Utah Code, will receive input only, no decision can be made*)

PUBLIC HEARING / APPLICATION #2982 / SILVA SUBDIVISION / Preliminary Plat/ 248 NORTH 600 WEST / NOLA SILVA

PUBLIC HEARING / APPLICATION #2988 / ANDREASEN SUBDIVISION / 121 WEST 500 NORTH / KYLE ANDREASEN

PUBLIC HEARING / APPLICATION #2991 / AMENDMENT PARKER RANCHETTES – PHASE 3, LOTS 12 & 13 / 986 SOUTH 950 WEST / CHRISTINE BAKER

PUBLIC HEARING / APPLICATION #2996 / ZONE CHANGE / R-M-7 TO GC / 1000 SOUTH MEDICAL DRIVE / L. KEITH SORENSEN

DISCUSSION:

- SKETCH PLAN / APPLICATION #2999 / MIKE SHAW SUBDIVISION / 330 EAST 200 SOUTH / MIKE SHAW
- SKETCH PLAN / APPLICATION #2998 / KOLONKO SUBDIVISION / 235 WEST 700 NORTH / KENNETH KOLONKO
- SKETCH PLAN / APPLICATION #3000 / 1305 WEST 1100 SOUTH / SYNERGY CONSULTANTS / NIBLEY PARK INVESTMENT LLC

REGULAR MEETING

Chairperson Peterson opened the regular meeting at 6:30 p.m. Commissioner Nielsen led the Pledge of Allegiance.

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES

MOTION: A motion was made by Commissioner Handy to approve the work session minutes of the January 15, 2008 meeting. The motion was seconded by Commissioner Nielsen and passed unanimously.

On lines 123 and 124, of the regular meeting minutes, the words 'handicap' should be changed to 'handicapped'. On line 269, the word 'is' should be changed to 'if'.

MOTION: A motion was made by Commissioner Poelman to approve the regular meeting minutes of the January 15, 2008 meeting as amended. The motion was seconded by Commissioner Nielsen and passed unanimously.

PUBLIC COMMENT:

There was no public comment.

PUBLIC HEARING / APPLICATION #2982 / SILVA SUBDIVISION / Preliminary Plat/ 248 NORTH 600 WEST / NOLA SILVA

This is a two lot subdivision. When this was first discussed at the Planning Commission as a sketch plan it was a three lot subdivision and there was some concern with the engineering. There is an existing home on lot 1 which also extends to the north into the Barbara Stokes property and also a garage on the northwest corner of lot 1 which extends into the public right-of-way and into the Barbara Stokes property. The applicant has agreed to a time frame on the removal of both of those structures. The Stokes lot has been removed from the subdivision at the owner's request. There are some items of correction to the plat that have been submitted to the engineer of record. If the applicant has no concern with the comments than it is assumed they will be taken care of. Sidewalk will be required unless a deferral is approved by City Council as recommended by Planning Commission. This street has a ranking of 4, in the Pedestrian Sidewalk Plan ranking table. For a ranking of 0-3.9, a deferral is always granted. For a ranking of 4-6.9, a deferral is reviewed and for a ranking of 7-10, a deferral is never granted. This was discussed with the Public Works Director, Blake Fannesbeck, and he noted that there is no sidewalk south of the subdivision or north of the subdivision, adjacent to these lots. There is sidewalk across the street to the west. Because of the low ranking, Mr. Fannesbeck recommended that a sidewalk deferral be recommended to City Council. The Staff recommendation is to recommend approval of the Silva Subdivision preliminary plat, forward it to the City Planner, as Land Use Authority, and recommend a sidewalk deferral to City Council.

MOTION: A motion was made by Commissioner Handy to open the public hearing for application #2982. The motion was seconded by Commissioner Poelman and passed unanimously.

Nola Silva came forward and asked what the Commission just recommended. Chairperson Peterson replied that nothing had yet been recommended and Commissioner Poelman commented that the City Planner had recommended that the sidewalk be deferred. Christina Gallegos, daughter of Felix Silva Gallegos, came forward. She stated that in the staff review it states they will tear down the house within one year but in their letter they stated that it would be torn down when they submitted for new construction. She said they are trying to sell a home in Ogden and when that happens they will apply for new construction. It is uncertain how long that process will take.

Mr. Leishman stated that a maximum timeframe needs to be set as a condition of the plat approval. The concessions the City made were that the Barbara Stokes property would be left out of this subdivision, as was requested, as long as the home and garage are removed. The timeframe deadline needs to start from the approval date of the subdivision plat.

Ms. Silva said they cannot have a deed for two until this is approved, as it is currently in three names and they are trying to get it into two. She said the Phillips-Hansen Title Company is holding the money for the third person on the deed; this person wants to be bought out because she is elderly and needs the finances. This cannot be done until the subdivision is approved.

Mr. Leishman asked if one year was enough time to remove the home. Ms. Gallegos said she would prefer more time as they are waiting for the sale of a home to take place and it is uncertain how long that will take. She does not want to be too tight with the timeframe. Mr. Leishman said the timeframe could be a specific date such as within two years or it could be a condition for issuing a building permit for a new home, whichever comes first. Both Ms. Silva and Ms. Gallegos agreed that a maximum of two years or when a new building permit is submitted would be a good timeframe. Mr. Leishman said that creating a hardship for them is not what is wanted but a definite date is needed because of the concession of removing Ms. Stokes from the subdivision plat.

MOTION: A motion was made by Commissioner Nielsen to close the public hearing for application #2982. The motion was seconded by Commissioner Poelman and passed unanimously.

MOTION: A motion was made by Commissioner Handy to recommend approval of application #2982 and forward it to the City Planner, acting as Land Use Authority, and recommend deferral of sidewalk to City Council; with the stipulations that the development will comply with the Staff evaluation and that the old home and garage be removed within two years of this approval; with the findings of fact that the applicant will comply with the Staff evaluation and that such use will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity. The motion was seconded by Commissioner Poelman.

Discussion: Mr. Leishman asked if it was stated in the motion that it was in compliance with the General Plan. Commissioner Handy said it was not and Mr. Leishman suggested that it should be in there. Commissioner Handy moved to add that to the motion and was seconded by Commissioner Poelman.

The motion passed unanimously.

PUBLIC HEARING / APPLICATION #2988 / ANDREASEN SUBDIVISION / 121 WEST 500 NORTH / KYLE ANDREASEN

This is an amendment to the Sato "LTTL" Subdivision, which was approved February 21, 1995. The applicants purchased parcel number two of this subdivision a few years ago. At that time, they came to the Planning Commission and asked for a dwelling group; two houses on one property under one ownership, which was approved. The Planning Commission was very specific that the property could never be subdivided as there was not enough property to have two individual lots that would comply with the Ordinance in the R-M-7 district. There was some miscommunication and the piece was illegally subdivided. The two owners had separate mortgages. The title company created two separate descriptions and addresses, and recorded them with the County Recorder. The County Assessor brought this problem to the attention of the City to get it corrected, about three years ago, and the City has since then been trying to bring it into compliance. In the spirit of cooperation, the City kept sending letters out to get cooperation on the matter. After the realtor notified the City that one of the properties was going to be sold and this situation needed to be corrected, the City filed letters of noncompliance on each home.

The applicants went to the Appeal Authority for a variance. The Appeal Authority granted a 5-foot variance for each lot on December 12, 2007 and the time period for any appeals to that decision has passed without activity. The standard appeal time, from an action, is 30-days. The applicants are now able to bring this back to the Planning Commission to legalize the previous illegal subdivision. They have submitted this as a plat amendment and are renaming it the Andreasen Subdivision. They are proposing two lots, each being 55-feet in width. In the Ordinance, the standards for this district require that each lot be 60-feet in width. There are a few minor corrections that need to be made to the plat. The sidewalk and curb and gutter are all in. The City is asking that the utility easements that were originally shown, be shown on the plat. Because this is an amended plat, this will be recommended to the City Council.

Commissioner Handy commented that he did not want to penalize the applicants but he was concerned that there is no way to manage this process for the future. He said there seemed to be a real flaw in the system if the Planning Commission directs that something not be subdivided and then it is done anyway. He suggested that a system of communication be worked out with the County Recorders office so as to prevent something like this from happening again. Mr. Leishman replied that a few years ago a law was passed stating that prior to any property being subdivided, it had to have the local jurisdictions approval. LouAnn Adams, County Recorder, was extremely supportive of that law and for about a one month period she would not record anything that did not have stamp on it from that local jurisdiction. She backed down when the title companies complained that she could not require that of them and that the legality of the documents was not an issue for her to critique as long as they were properly notarized. Mr. Leishman said there is nothing in State law that would help Ms. Adams. Commissioner Handy commented that it should not be given up on easily as since that time the County has had a lot of problem with illegally created subdivisions in the west part of the county, which they are spending a lot of money on trying to correct. Mr. Leishman explained that in the City's process for a subdivision, the plat has a City seal placed on it with a signature and the date of approval. That is the way the City has of showing the County the authentication of a subdivision.

MOTION: A motion was made by Commissioner Poelman to open the public hearing for application #2988. The motion was seconded by Commissioner Nielsen and passed unanimously.

Brenda Andreasen, co-applicant, came forward. Ms. Andreasen stated that her brother and sister-in-law are the other applicants. She stated that at the time the illegal subdivision was done, they were led by their realtor and were not doing anything purposefully against the rules. They were given two separate loans and had they been told they needed one loan between them, they would never have done it. She requested that this subdivision be approved so they can separate the

lots, allowing them to sell their homes independently without creating a hardship on either applicant and to be in compliance with the City.

Mr. Leishman said the realtor's daughter stated that the title company that did the illegal subdivision is no longer in business. They assumed the title person knew how to handle the situation within the context of State and City law. He stated that ~~this situation is trying to be rectified~~ we are trying to rectify this situation and no one punished. It is important to realize that the Appeal Authority, previously named Board of Adjustment, has granted a variance which makes this subdivision plat legal. What happened in the past is unfortunate but is no longer relevant. Commissioner Handy commented that the past is relevant if the same mistakes continue to be made.

MOTION: A motion was made by Commissioner Poelman to close the public hearing for application #2988. The motion was seconded by Commissioner Nielsen and passed unanimously.

MOTION: A motion was made by Commissioner Nielsen to forward application #2988 to the City Council with recommendation for approval with the stipulations that it comply with Staff comments and evaluation, comply with Chapter 25.05.01 Amendment to Subdivision Plat and comply with Utah Code 10-9a-608 Vacating or Changing a Subdivision Plat; based on findings of fact that the applicant will comply with the Staff evaluation, that such use will not under the circumstance of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity and that such use is in compliance with the Brigham City General Plan. The motion was seconded by Commissioner Handy and passed unanimously.

PUBLIC HEARING / APPLICATION #2991 / AMENDMENT PARKER RANCHETTES – PHASE 3, LOTS 12 & 13 / 986 SOUTH 950 WEST / CHRISTINE BAKER

The Baker home is located on the corner of 950 West and 1000 South, lot 13. Lot 12 is located directly north of the home and Ms. Baker would like to turn lot 12 into a family park. The request is to join lots 12 and 13 into one lot and identify it as lot 13; using the address and standards currently assigned to lot 13. County Recorder, LouAnn Adams, is going to allow this amendment to be recorded by affidavit, which will be a great savings to the applicant and the City. The common property line will need to be removed by an affidavit which will need to be prepared from a lawfully licensed land surveyor. The City Council will attach an ordinance to that. Commissioner Nielsen commented that the Water Division comments in the Staff evaluation implied that there is a 1-inch service going to lot 12 and he wanted to understand what was meant by the statement that they must discontinue. Mr. Leishman explained that the water lateral that was stubbed into lot 12 will never be used with the proposed configuration and there is only one water meter per lateral per lot. The applicant needs to hire someone to sever the 1-inch line at the corp stop as it will start to leak if it is never used. In the future if someone wants to put a house on this lot they would have to re-subdivide and create a new 1-inch lateral going into the lot.

MOTION: A motion was made by Commissioner Poelman to open the public hearing for application #2991. The motion was seconded by Commissioner Nielsen and passed unanimously.

Christine H. Baker came forward. She asked about the water stub and what it would entail to get the water hooked back up. Mr. Leishman replied that the question would need to be deferred to the Water Division. Ms. Baker said the property was designed to be a family park. She asked how she could have a family park if she could not put a gazebo on it or a storage facility for things to take care of the property. Mr. Leishman stated that the Ordinance states that an accessory structure must be accessory to a primary use. By joining the two pieces of property, an accessory building, such as a gazebo, would become accessory to the residence which is on the same property. Ms. Baker said she would like the water stub to stay and not do anything with it. Mr. Leishman commented that Ms. Baker will need to comply with the Staff evaluation. She can speak with the culinary Water Division and if they agree to modify their statement regarding the water stub then she would still be in compliance with the Staff evaluation. There is no utility easement on the common property line of lots 12 and 13.

MOTION: A motion was made by Commissioner Poelman to close the public hearing for application #2991. The motion was seconded by Commissioner Nielsen and passed unanimously.

Commissioner Poelman asked if a statement about closing the water line needed to be included in the motion. Mr. Leishman said that would be part of the Staff recommendation and as long as Ms. Baker agrees to comply with it, as written or as modified by the Water Division. Ms. Baker could get that worked out before this application goes to the City Council.

MOTION: A motion was made by Commissioner Poelman to forward to City Council, with a recommendation for approval, application #2991 with the stipulation that it

must comply with the Staff evaluation and must comply with Chapter 25.05.01 Amendment to Subdivision Plat and must comply with Utah Code 10-9a-608 Vacating or Changing a Subdivision Plat; based on the findings of fact that the applicant will comply with the Staff evaluation and such use will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity and such use is in compliance with the Brigham City General Plan. The motion was seconded by Commissioner Handy.

Discussion: Commissioner Nielsen commented that he would like to add a provision that the applicant meet with the culinary water storm drain division and reach a suitable accommodation regarding the 1-inch water service for 950 West as opposed to just what is written in the evaluation. He thought it should be forwarded contingent upon a satisfactory resolution between the applicant and the City regarding the water service. Commissioner Handy commented that he was not sure that was possible as in the end the applicant will have to abide by the Staff comments. Commissioner Nielsen replied that they should leave the door open to another answer than what was written in the Staff evaluation of disconnecting the water line. Commissioner Handy commented that he assumed that option was open in the motion and the applicant would, of her own accord, contact them and see what she could work out. He said he was not too comfortable directing the applicant to meet with them. Commissioner Nielsen agreed but restated that he wanted to leave the door open as there may be another resolution than simply disconnecting the service but if the City requires that, then it would have to be done as a condition of approval. Chairperson Peterson said she thought it had been commented on that the applicant and the Water Division could come to an agreement. Mr. Leishman stated that directing that department head on what to do is not a position they want to be in. They do not want to create a hardship but need to take care of the situation with the assumption that it will remain one lot, which is what appears to be the intent at this time.

Chairperson Peterson clarified that the motion would stand as stated.

The motion passed unanimously.

PUBLIC HEARING / APPLICATION #2996 / ZONE CHANGE / R-M-7 TO GC / 1000 SOUTH MEDICAL DRIVE / L. KEITH SORENSEN

This property is in the ownership of Brigham Commercial Properties, LLC. Their agent is L. Keith Sorensen who is an architect that has been asked to come and represent them. This application involves two pieces of property, the old Kirk Nelsen residence located at 1000 S Medical Drive and also Lot 1 of the Greener Pasture Subdivision. The property is located north of the Old Grist Mill and south of Dr. Sumko, and west of Medical Drive and east of 800 West. Staff evaluated this rezone request with the General Plan map and found the area to be identified as commercial, general and gateway. Mr. Leishman explained that the R-M-7 zone has two uses; the first use is residential 7-units per acre and with the second it has the ability for medical offices/social services type of buildings. That is why the hospital and other medical facilities are seen in that area, which were probably approved as conditional uses. This request is to rezone the property to GC, General Commercial, which is compatible with the General Plan. It also would open many doors and opportunities for various uses. The R-M-7 is highly restrictive. This would be an extension of the GC zone northward.

MOTION: A motion was made by Commissioner Handy to open the public hearing for application #2996. The motion was seconded by Commissioner Poelman and passed unanimously.

Keith Sorensen came forward and stated that he was representing Brigham Commercial Properties on this zoning change request. The developer intends to put medically related facilities on this property. It is consistent with the GC zoning and also the General Plan. He said it made sense to have the zoning match those types of projects that they are anticipating to put on this property. The existing home will be raised, at some point in time, and a building will be placed in the proximity of the footprint where the existing home is located.

Commissioner Nielsen commented that by changing the zone to GC it would open the door to any commercial use in that area, as long as it met the requirements. He said that everyone needed to understand that changing the zone would open the door to other uses in that area, not just things related to the medical industry. Mr. Leishman agreed that was a true statement and said if the application is denied, they would need to create findings of fact to go against the General Plan. The property will become much more valuable as general commercial property because there are many more uses that will be allowed there.

Commissioner Nielsen asked if the intent is to develop in a phase approach, at this point, or if the intent is for something applicable for the entire property. Mr. Sorensen replied that it would be phased. It is likely that it will be subdivided into four parcels for the long term development. There is some work that needs to be done on the subdivision process. Commissioner Poelman asked if the developer is anticipating all four areas, which will be subdivided, to have those types of facilities. Mr. Sorensen replied that would be the case. Mr. Leishman commented that the future use or lack of use on the property was not relevant.

Commissioner Nielsen commented that when the General Plan was updated, the commercial use was identified for this area and it seems appropriate to make the zone change to be compatible with the General Plan as that is what it will eventually be, at some point.

Dewey Mackay, one of the condominium owners of the Medical Arts building, came forward. He commented that, as previously stated, the current zoning would allow all medical and asked why it would need to be changed if the applicant was really going to put in a medical facility. He stated that they have a beautiful medical complex down there that includes the hospital and multiple medical clinics. He commented that experience has shown that money talks and the medical field does not seem to have the kind of money to build things the way Wal-Mart does and he guaranteed that they would give in and sell it off and other commercial businesses would go in there. In his opinion, doing that would really hurt the medical community and he said there would be no reason to change the zoning if the intent is to put a medical facility there which would strengthen the medical community and improve the medical services for the community. Mr. Mackay voiced his opinion against any need to change the zone and if it is changed he felt that it would hurt the medical community and the value of the medical offices.

MOTION: A motion was made by Commissioner Nielsen to close the public hearing for application #2996. The motion was seconded by Commissioner Handy and passed unanimously.

Commissioner Poelman asked Mr. Leishman why they would want to change the zone if their intent was to do it that way and not wait. Mr. Leishman replied that the GC district allows more latitude and allows more stories and height. He said it was his understanding that the owners realize that they can build in either district. One of the difficulties is that they could not build the same medical facility in an R-M-7 as could be built in a GC because it could not be as high, in regards to height and ~~story~~ stories in the R-M-7. Mr. Leishman said that Mr. Sorensen had a discussion with the owners of the property and based on what they want to do in the medical profession and value for land, they feel their development and the money they are proposing to spend in our community would be much better spent under the parameters of a GC district. They have evaluated the General Plan and they can see that it is to their advantage to request a zone change, which is compatible with the General Plan. This will give them more latitude on the same type of use.

Commissioner Handy commented that Mr. Leishman indicated that in order for this application to be denied, the Commission would have to come up with some finding of fact to show that changing the zone would be detrimental to the general welfare in some way even though the General Plan calls for this area to be commercial. Mr. Leishman stated that during the hearings for the General Plan the Planning Commission and City Council had taken comment and decided that if the property in that area were to be rezoned, it should be rezoned to a Commercial General and Gateway zoning district. He cautioned that if this is denied, they will need to have findings of fact to go against the General Plan. He said if they are uncomfortable, this application should be continued so legal counsel can be brought in. Whatever is done needs to be defensible in the event the action is challenged.

Commissioner Handy commented that given what was said and his own belief that there is no valid reason to turn it down, he would like to make the motion.

MOTION: A motion was made by Commissioner Handy to recommend to the City Council approval of application #2996 zone change from R-M-7 to GC zone with the stipulations that the developer comply with the Staff evaluation, that it will comply with Chapter 10-9a-502 and that it will comply with the Brigham City Code Chapter 29.04; with the finding of fact that the applicant will comply with the Staff evaluation and that such use will not under the circumstance of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity and that such use is in compliance with the Brigham City General Plan. The motion was seconded by Commissioner Nielsen and passed unanimously.

Mr. Leishman commented to reassure Dr. Mackay that the Planning Commission is a recommending body and the final decision rests with the City Council. With any application that gets forwarded to the City Council or the City Planner as Land Use Authority, the minutes of the public hearing are available and will be sent to the City Council for review as they evaluate the application. Comment cannot be made to the City Council during the action at the City Council meeting but there is ample time in the public comment period prior to that for Dr. Mackay or anyone else to make additional comment. Also, letters could be written and sent to the City Council as well.

DISCUSSION:

Mr. Leishman reminded the Commissioners that in the new subdivision process the applications first come before them as a sketch plan for discussion; no motions can be made on them. The intent is to get comment from the Commission and to incorporate those comments into the drawings for preliminary plat.

There was a temporary recess at 7:45 p.m.

The meeting resumed at 7:47 p.m.

- **SKETCH PLAN / APPLICATION #2999 / MIKE SHAW SUBDIVISION / 330 EAST 200 SOUTH / MIKE SHAW**
In the Staff evaluation, item 3 of Community Development, there is no ranking for the sidewalk on either 200 South or 400 East. The 200 South portion would be in the control of the UDOT, as it is their right-of-way. The 400 East right-of-way will be ranked by Brigham City Corporation. There is a long list of items to review as the plat is updated or corrected. The intent of the sketch plan review is to address and incorporate the comments prior to the application being formally reviewed. At such time as the application is formally brought before the Planning Commission, it should have all the concerns and issues worked out. The sketch plan is brought before the Planning Commission to get input on the applications from the Commissioners. It is unknown if the applicant will be requesting deferral of sidewalk. Lot 2 is 12,764 square feet and the corner lot with the existing home is 13,770 square feet; neither will need a variance. In regards to the sidewalk on 200 South, UDOT will decide if they want sidewalk along there. In the event that UDOT does not care if sidewalk is installed, then the City ordinances will come into play and there will either be sidewalk or a deferral.

Mike Shaw came forward. He said the house is on a double-size lot which is basically twice the size of the other lots in the area. The lot has fruit trees on it and he would like to keep it as a garden/orchard type lot at this time. He wants to separate it off, sell the house and maintain the lot; there are no plans to build on it. Commissioner Nielsen asked if there would be any complications to the other lot, if this lot is divided off, as there is a shed in the back corner of the other lot with no primary structure on it. Mr. Leishman said he assumed the shed would have to go. Currently, the shed is in compliance as being an accessory structure to the primary structure, which is the home. Mr. Leishman said he thought the only avenue would be to go to the Appeal Authority and have them approve it as legal nonconforming. The applicant can discuss that with Staff. When subdividing, it is clear that the property complies with all the standards but to subdivide with the shed already being there is a legal issue that should be reviewed with the City Attorney. The assumption with subdividing is that the land becomes a legal building lot. This will not be a fully improved lot and does not have a water line but the water division will allow the water line to be stubbed in at the time a building permit is issued because it is not known where the driveway is going to be located, which will prevent the possibility of moving the water meter. There is secondary irrigation water available to the lot. There is a City sewer main going through the property to satisfy the sewer needs of the home to the south of lot 2. Mr. Leishman said the shed issue would be addressed with the City Attorney to determine what needs to be done.

- **SKETCH PLAN / APPLICATION #2998 / KOLONKO SUBDIVISION / 235 WEST 700 NORTH / KENNETH KOLONKO**
This has been to the Appeal Authority. This lot is in an R-1-8 district and has a duplex, two-family dwelling on it. There are no City standards for that; a duplex is not allowed in a single family zone. Mr. Kolonko took his application to the Appeal Authority and asked them how much property he needed to retain for the corner lot to be compliant with City standards and if there would be enough property left to have a single family lot directly south of the lot with the duplex. The Appeal Authority looked at the ordinance that was in place when the duplex was built and it was legal at the time. At that time the standards were 8,000 square feet; he has much more than that. The rear yard had to be 30-feet from the rear of the structure to the rear property line. The Appeal Authority's decision was based on the standards that were needed to be lawfully compliant at the time it was built. The lot is much larger in area as than would have been required when the duplex was originally built. The lot will have the required 30-foot rear yard.

Mr. Leishman explained the comment about the fence being assumed to the existing property line. He said that the Xs showing on the map are the existing fence line that divides the W.E. Jones Trustee property from the Kolonko property. The surveyor had drawn the subdivision to reflect what is actually on the deed. This area is part of the 1892 plat of Brigham City, which is when the city was subdivided. There are monuments in the center of each intersection. The right-of-ways are set but each block may be a little wider or narrower than what they thought it was in 1892. So the fence that sits 10-feet east of the property line assumes the property that is not theirs, the actual owner of the property could make an issue of it if wanted. Mr. Leishman said that the Jones may just move their fence 10-feet west to be in line with the plat. Commissioner Nielsen commented that the fence issue should be worked out between the property owners.

- **SKETCH PLAN / APPLICATION #3000 / 1305 WEST 1100 SOUTH / SYNERGY CONSULTANTS / NIBLEY PARK INVESTMENT LLC**
The area for this development is about 173 acres. This proposal is a major residential/commercial development directly

west of Wal-Mart. Because this is located in the joint area between Brigham City and Perry City it will need to go to the Joint Advisory Board. There are some concerns with the wetlands, being able to get a crossing through or over the railroad, and working with Perry City on a joint development with the developer. About 60-percent of the development will likely be located in Perry. On the map, the blue area is commercial development, the pink area is residential and west of the railroad tracks is a major anchor that will occupy that property. There will be a new access onto 1100 South at 1100 West or 1200 West. There have been concerns mentioned regarding the quantity of people that will be there and a secondary means of ingress and egress into the property should be looked at. It is an exciting development and once this goes in there will probably be additional development to the south. The water table in that area is fairly high. The Army Corps of Engineers will need to be involved in this and upfront the applicant needs to get a wetland delineation. This developer is very knowledgeable and is going in understanding the situation and has a very good track record. There are a lot of things that cannot be divulged until it becomes public. This will require a sewer lift station. Commissioner Nielsen commented that there are a lot of Staff comments that need to be addressed before this comes before them formally.

Commissioner Handy asked about the progress of the development at the old golf course. Mr. Leishman said they are doing a wetlands study and the Army Corps has sent it back to their regional office to determine if they are jurisdictional or not. The developer is waiting for that determination. The City Council approved the preliminary plat with improvements on SR-13, curb and gutter with partial sidewalk which will come back into the subdivision. They also chose to impose a new standard in the new subdivision ordinance, which is secondary irrigation. Mr. Leishman said that Scott Mitchell told him he felt that the City Council has been arbitrary, discriminatory and capricious. He has filed an appeal in District Court against the City Council. He has 10 days to complete the submittal and has put the court on notice and is filing an appeal. The 10-day period started after the minutes of City Council were approved last week.

Mr. Leishman commented that he attended a Planning Commission meeting in Logan City and they had the drawings projected on the wall for all to see. He said he felt they were doing a disservice by not having the subdivision plats and such available for everyone in the room to see. When plats are being discussed on the table, something needs to be projected on the wall for the public to see. Logan City had used a PowerPoint presentation to show all the drawings for each application as they were being discussed. Commissioner Nielsen commented that they had discussed this in the past and nothing had been decided about it. Mr. Leishman said the Planning Commission could direct the Staff to do that if they desired. The Commissioners said they would like to have that. Chairperson Peterson said that would be helpful to them as sometimes the final plats come in late and it is hard to see them when they are spread out on the table.

Commissioner Nielsen commented about an issue that was brought up in the Business Relations Task Force meeting in regards to the temporary business license that Young Automotive had at the old Vesco building. They liked that location so well that they decided to turn it into a permanent facility and get a permanent business license. He said he did not understand why they would write the sales up in Brigham and actually consummate the sales in Layton so that Brigham gained no benefit and asked if that would continue to happen. Mr. Leishman replied that he did not know if that would continue to happen. He said when there are temporary off-site auto sales in Brigham City a temporary sales tax number is needed because at the point of sale that city gains the sales tax. The practice in temporary sales is to finish the sale in the home based city so that city gets the sales tax. It is somewhat difficult to get a temporary sales tax number and the retailers don't want to deal with it. Commissioner Handy asked why they are allowed to do that. Mr. Leishman said that Byron Hansen raised the question as to why the City would let retailers use the City like that if there is no benefit to the City. The advantage to the Young Automotive situation is that they were so successful that they chose to remodel the old Vesco building and want to have a permanent location in Brigham City, assuming business goes as they think it will. Commissioner Nielsen commented that if they have an office here he was not sure if there was a way to require that the sale be consummated here so the sales tax benefit could come to the City.

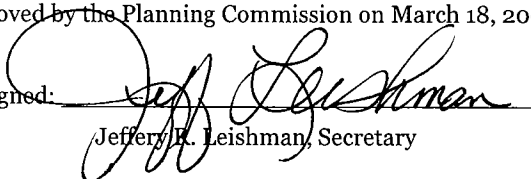
MOTION: A motion was made by Commissioner Nielsen to adjourn. The motion was seconded by Commissioner Poelman and passed unanimously.

The meeting adjourned at 8:22 p.m.

This certifies that the regular meeting minutes of February 05, 2008 are a true and accurate copy as

approved by the Planning Commission on March 18, 2008.

Signed:


Jeffery R. Leishman, Secretary